Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SURGERY SPECIALTY HOSPITALS OF AMERICA
4301 VISTA RD
PASADENA TX 77504-2117

DWC Claim #: X0069867
Injured Employee: Pascal J. Lafauci
Date of Injury: June 17, 1991
Employer Name: GMP Service Co Inc
Insurance Carrier #: 197527121

Respondent Name

Employers Insurance Co of Wausau

Carrier's Austin Representative Box

Box Number 01

MFDR Tracking Number

M4-10-2667-01

MFDR Date Received

February 1, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Therefore, the Carrier is required to reimburse Provider $17,284.57 pursuant to the Outpatient Fee Guideline, which will result in fair and reasonable reimbursement for the services provided to the injured worker. The Carrier made a partial payment of $15,575.76. Therefore, the Carrier is required to reimburse Provider in the additional amount of $1,708.81, plus any and all applicable interest."

Amount in Dispute: $1,708.81

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Reimbursement for the implantables has been made to the surgical implant provider and no reimbursement for the implantables is due to the requester who did NOT provide the implantables or incur a charge for the implantables. No reimbursement is due to the requester for the implantables whether it is under DWC Rule §134.403 (f)(1)(A) or (g Payment to the requester facility that is inclusive of reimbursement for implants AND payment to a separate provider for the same implants does not achieve effective medical cost control as required per Texas Labor Code Section 413.011."

Response Submitted by: UniMed Direct, 5068 W. Plano Pkwy, Suite 122, Plano, TX 75093

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
February 3, 2009	Outpatient Hospital Services	$1,708.81	$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the

reimbursement guidelines for facility services provided in an outpatient acute care hospital.

3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits dated March 5, 2009

   - 97 – PAYMENT IS INCLUDED IN THE ALLOWANCE FOR ANOTHER SERVICE PROCEDURE. UNBUNDLING – INCLUDED IN ANOTHER BILLED PROCEDURE.
   - 18 – DUPLICATE CLAIM SERVICE. DUPLICATE CHARGES REIMBURSEMENT WAS PREVIOUSLY MADE FOR SERVICES RENDERED TO THIS INJURED WORKER ON THIS DATE OF SERVICE
   - W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT. FEE GUIDELINE MAR REDUCTION

   Explanation of benefits dated July 23, 2009

   - 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. THIS CLAIM WAS PROCESSED PROPERLY THE FIRST TIME.

Issues

1. Did the insurance carrier support its reasons for denying the disputed implantable items?
2. Are the disputed services subject to a contractual agreement between the parties to this dispute?
3. What is the applicable rule for determining reimbursement for the disputed services?
4. What is the recommended payment amount for the services in dispute?
5. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied disputed implantable items with reason code 18 – "DUPLICATE CLAIM SERVICE. DUPLICATE CHARGES REIMBURSEMENT WAS PREVIOUSLY MADE FOR SERVICES RENDERED TO THIS INJURED WORKER ON THIS DATE OF SERVICE." Per 28 Texas Administrative Code §133.403(g) "Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission." The respondent provided documentation to support that Prestige Medical Service submitted a separate bill as the surgical implant provider for the disputed implantable items and was separately reimbursed for the implantable items in dispute. The Division therefore concludes that the denial reason is supported. Reimbursement is not recommended.
2. Review of the submitted documentation finds no information to support that the disputed services are subject to a contractual agreement between the parties to this dispute.
3. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was requested. Therefore, per §134.403(f)(1)(B), the facility specific reimbursement amount including outlier payments is multiplied by 130 percent. Per §134.403(f)(2), when calculating outlier payment amounts, the facility's total billed charges shall be reduced by the facility's billed charges for any item reimbursed separately und §134.403(g). The facility's total billed charges for the separately reimbursed implantable items are $23,900.00. The facility's total billed charges shall be reduced by this amount for the purpose of calculating any outlier payments below.
4. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for

the disputed services is calculated as follows:

- Procedure code J3490, date of service February 3, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code A4649, date of service February 3, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code A4649, date of service February 3, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code C1778, date of service February 3, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code 77002, date of service February 3, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code 63650, date of service February 3, 2009, has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0040, which, per OPPS Addendum A, has a payment rate of $4,206.45. This amount multiplied by 60% yields an unadjusted labor-related amount of $2,523.87. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $2,496.11. The non-labor related portion is 40% of the APC rate or $1,682.58. The sum of the labor and non-labor related amounts is $4,178.69. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of $1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.298. This ratio multiplied by the billed charge of $1,157.68 yields a cost of $344.99. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of $4,178.69 divided by the sum of all APC payments is 49.14%. The sum of all packaged costs is $12,056.54. The allocated portion of packaged costs is $5,925.16. This amount added to the service cost yields a total cost of $6,270.15. The cost of these services exceeds the annual fixed-dollar threshold of $1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is $0.00. The total APC payment for this line is $4,178.69. This amount multiplied by 130% yields a MAR of $5,432.30.
- Procedure code 63650, date of service February 3, 2009, has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0040, which, per OPPS Addendum A, has a payment rate of $4,206.45. This amount multiplied by 60% yields an unadjusted labor-related amount of $2,523.87. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $2,496.11. The non-labor related portion is 40% of the APC rate or $1,682.58. The sum of the labor and non-labor related amounts is $4,178.69. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of $1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.298. This ratio multiplied by the billed charge of $1,157.66 yields a cost of $344.98. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of $4,178.69 divided by the sum of all APC payments is 49.14%. The sum of all packaged costs is $12,056.54. The allocated portion of packaged costs is $5,925.16. This amount added to the service cost yields a total cost of $6,270.14. The cost of these services exceeds the annual fixed-dollar threshold of $1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is $0.00. The total APC payment for this line is $4,178.69. This amount multiplied by 130% yields a MAR of $5,432.30.
- Procedure code 95972, date of service February 3, 2009, has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0692, which, per OPPS Addendum A, has a payment rate of $109.24. This amount multiplied by 60% yields an unadjusted labor-related amount of $65.54. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $64.82. The non-labor related portion is 40% of the APC rate or $43.70. The sum of the labor and non-

labor related amounts is $108.52. The cost of these services does not exceed the annual fixed-dollar threshold of $1,800. The outlier payment amount is $0. The total APC payment for this line is $108.52. This amount multiplied by 130% yields a MAR of $141.08.

- Procedure code 94799, date of service February 3, 2009, has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. These services are classified under APC 0367, which, per OPPS Addendum A, has a payment rate of $37.17. This amount multiplied by 60% yields an unadjusted labor-related amount of $22.30. This amount multiplied by the annual wage index for this facility of 0.989 yields an adjusted labor-related amount of $22.05. The non-labor related portion is 40% of the APC rate or $14.87. The sum of the labor and non-labor related amounts is $36.92. The cost of these services does not exceed the annual fixed-dollar threshold of $1,800. The outlier payment amount is $0. The total APC payment for this line is $36.92. This amount multiplied by 130% yields a MAR of $48.00.

5. The total allowable reimbursement for the services in dispute is $11,053.67. This amount less the amount previously paid by the insurance carrier of $15,575.76 leaves an amount due to the requestor of $0.00. No additional reimbursement can be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature

Signature	Peggy Miller Medical Fee Dispute Resolution Officer	April 5, 2013 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.